Energy Update

Issue 30 April 17, 2001

Hertzberg leads delegation to confront FERC in Idaho

Taking off before dawn, a delegation of California lawmakers yesterday winged its way to a stark airport hotel here and pleaded for federal regulators to intervene in the state's dysfunctional energy market.

FERC has steadfast refusal to embrace wholesale price controls on electricity -- although one commissioner appeared yesterday to soften her opposition to the idea.

Hertzberg opened his five-minute remarks by acknowledging that California had created some of its own problems. But he pleaded with the three commissioners to pay attention.

"California is poised on the edge of an economic precipice that threatens not only our economy, but the economy of the entire country," Hertzberg said, adding that the state anticipated paying $65 billion for electricity this year, almost 10 times its power bill in 1999.

Two of the three board members seemed to hear the request. Commissioner William Massey has long been an advocate for increased FERC intervention. And Linda Breathitt, the third sitting commissioner, appeared to further soften her reluctance to impose price controls yesterday.

"I have increasing concerns about what the summer holds," she said. "We must find a way to calm the troubled market if a competitive market is ever going to become a reality."

But FERC Chairman Curt Hebert is the man standing squarely in the way of California's requests. As the head of the board, he has complete control over its agenda.

Hebert believes in free markets, and as an appointee of President Bush, concurs with Bush's belief that price caps would do nothing to help and would perhaps make the situation even worse.

Some firms crushed by energy crisis

When Bernard Marszalek talks about economists who say California's energy crisis is no big deal, you can almost see the smoke rising from his ears. Marszalek, marketing manager for Inkworks Press, a Berkeley printer, has seen his company's cost of natural gas go up about 60 percent. Now he's facing the prospect of a 40 percent increase in the cost of electricity, which powers Inkworks' two presses. The potential hit: $3,600 a year, no small sum for a business that grosses $2 million annually.

PG&E Bankruptcy Message Points

- The PG&E decision to file bankruptcy essentially removes the State from being able to influence the outcome. The federal bankruptcy judge alone has the power to determine what PG&E will look like at the end of the process, including how high rates might rise and the disposition of its generating assets.
- Nevertheless, we all knew that it was a possibility.
- It's important that PG&E filed for Chapter 11 protection rather than for Chapter 7. Under Chapter 11, there is still an opportunity for a reorganization plan to be brought forward to protect the utility's assets and, we hope, protect ratepayers from huge increases.
- Still, those decisions will be made by a federal judge whose priority under federal bankruptcy law is to protect the utility's creditors, which include those private generators who have charged us so much for electricity.
- There is no reason to believe that PG&E customers will see any immediate difference under bankruptcy. The lights should stay on and the bills will continue to arrive. Workers will continue to be paid and be able to respond to customer needs. The judge has already issued a temporary order to that effect.
- While there is no legal role for the Legislature in a bankruptcy, the judge has taken actions that indicate he will be at least in part governed by concerns regarding the health and welfare of the people of California.
- We will be working with the Governor to have an impact on some of those court decisions and the Assembly's bankruptcy attorney is monitoring the court proceedings so that we will have knowledge and understanding of those proceedings.
- Specifically, we hope to find a way to work with the court to ensure that PG&E's remaining generating capacity, namely its hydro and nuclear power plant, does not fall into the hands of the same out-of-state generators that have been robbing California blind.
- We must help the court conclude that whatever settlement is ultimately reached does not fall on the backs of already burdened PG&E customers.

Deal to Buy Edison Grid Raises Doubts in

Gov. Gray Davis may face a bigger challenge selling legislators on his deal to keep Southern California Edison out of bankruptcy than he did in forging the agreement.

Legislators returning to Sacramento on Monday after their spring break openly voiced objections to and concerns about the deal to purchase Edison's power lines in exchange for $2.76 billion and a variety of state guarantees.

Some Republicans and Democrats called Davis' deal too generous. Others questioned if a state-financed rescue of Edison still makes sense after the bankruptcy of PG&E.

If the Edison deal came to a vote right now, several legislators said, it would almost certainly fail.

Davis is meeting this week with Senate Republicans and Democrats in both houses.

Republicans strongly oppose the Edison deal and say it will be dead on arrival when it finally reaches the Legislature, which could still be days away.

"I haven't talked to anybody who is for it," said Sen. Don Perata (D-Alameda), who has become a vocal critic of Davis' approach to the energy crisis. "I'm not saying he can't sell it; I'm saying he has to sell it."

Yet amid increased grumbling from legislators concerned about their political futures, and threats of a ballot initiative by angry consumer groups to re-regulate electricity, even a full-court press by Davis may not be enough.

State Senate leader John Burton (D-San Francisco) said, "I've got some questions--serious questions."

Among his concerns is a guarantee that Edison be allowed to generate an 11.6% return on equity until 2010--a concession that takes that decision out of the hands of the PUC, which usually adjusts the rate.

Perhaps the biggest question about the Edison deal is whether it would still accomplish what it was intended to do: buy out, not bail out, the nearly bankrupt utility.

PG&E's bankruptcy has complicated that scenario, and may make it impossible to acquire its part of the system.

"The real question here is whether it makes any sense for the ratepayers to buy one-third of the transmission system," said Sen. Debra Bowen (D-Marina del Rey). "Normally, if you buy one-third of a bridge, you get very wet…"

Another question being pondered by legislators is whether they need to keep Edison out of bankruptcy. Much of the focus in Sacramento has been on keeping the utilities from going to bankruptcy court, an outcome many legislators believed would have catastrophic consequences.

But after PG&E's decision to file for bankruptcy --a move that embarrassed the governor--a growing group of legislators is rethinking that position. Some believe a court may be a better place for Edison to solve its problems.

"Regardless of who blinked first, the fact of the matter is (Davis) let them go bankrupt," Perata said. "All these dire things that were initially predicted have not occurred."

Runaway spending for power

Estimates of what the state may have to spend on power this year are staggering, particularly when compared with the $7.4 billion spent in 1999 before the crisis began. Total spending for 2000 could top $60 billion. However, bond sales should provide protection for the state's share.

FERC holds key to prices in state this summer

A key to controlling electricity prices in California this summer lies in a little-noticed bureaucratic process now underway at the Federal Energy Regulatory Commission.

FERC must decide whether to renew energy producers' right--first granted in 1998 for three years and then subject to review--to sell power to California at whatever price the market will bear.

Five big power plant owners and marketers have begun to petition the commission to allow them to continue.

By revoking the right of energy companies to charge as much as they like, FERC could quickly fix much of California's energy crisis, some say. Prices would be regulated by the commission, much as they were for 70 years before the 1990s, when the agency embraced competition.

It would spare the state from soaring power prices that this summer, said Stanford economist Frank Wolak.

"If FERC refuses to grant market-based pricing to all these guys," said Wolak, "we're done. The financial side of the California power market is solved."

It's not clear that the commission will crimp the energy companies' profits. It has turned away California's pleas that the agency cap wholesale electricity prices across the West. Commission Chairman Curtis L. Hebert, who wields great control, says price spikes will attract new power plant builders to California.

But in weighing whether to allow the companies to keep selling at market rates, FERC will be hard-pressed to ignore its own findings that the companies have manipulated the market, some say.

DWP Chief to Work for Davis

S. David Freeman, the 75-year-old general manager of the Los Angeles Department of Water and Power, will become Gov. Gray Davis' chief energy advisor and a leading candidate to head a California power authority.

Freeman has been credited with making the Los Angeles municipal utility an island of electrical stability in a statewide sea of crisis.

Freeman is expected to significantly shape the state's energy policy as Davis struggles to keep prices under control and prevent widespread blackouts this summer.

Freeman would bring unparalleled experience to a state energy post. The wisecracking Tennessee native has run three of the largest public power authorities in the US--the Tennessee Valley Authority, the New York Power Authority and the Lower Colorado River Authority in Texas. He also served as energy advisor to President Jimmy Carter.

What Others Say

Legislature should reopen Edison deal

Wall Street has rendered its judgment on Gov. Gray Davis' plan to revive debt-ridden Southern California Edison, and in the words of the investment firm Goldman Sachs, "It appears that the plan is shareholder friendly… A restructuring of Edison's debt that shifts most of the financial risks of the past, present and future squarely to ratepayers is the worst-case scenario in an Edison bankruptcy. Yet that is the best that Davis could come up with." –*Sac. Bee*